IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1803 OF 2005

Shahajahan Mohamed Qureshi ...Applicant

Versus

State of Maharashtra ...Respondent

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Mr.S.V.Marwadi for Applicant.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

MARCH 22, 2005.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. Indeed, the subsequent dying declaration indicates involvement of the Applicant herein in the commission of the offence. However, the credibility of the second dying declaration is in serious doubt. This is so because the contemporaneous record clearly go to show that the

Applicant was not present at the relevant time. Immediately after the incident, neighbour, who is an independent witness, rushed to the spot and whose statement clearly reveals the manner in which the incident took place and the fact that the Applicant was away at the relevant time. Besides the statement of the independent witness, even the statement of husband as well as the first dying declaration recorded, does support the position that the Applicant was not present at the relevant time and the incident in question happened because of the stove blast. It is possible to take the view, prima facie though, that the second dying declaration is a tutored version.

3. Accordingly, taking overall view of the matter, coupled with the fact that the Applicant is a female, in my opinion, this is a fit case for grant of bail on the following conditions :

(a) The Applicant is released on bail in connection with C.R.No.126 of 2004 registered with Shivaji Nagar Police Station on executing personal bond in the sum of Rs.10,000/- (Rupees Ten

Thousand) with two local sureties in the like amount.

(b) The Applicant shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

(c) The Applicant shall extend full co-operation to the Trial Court for early disposal of the trial and if the Trial Court is of the opinion that the Applicant is responsible for the delay of the trial, that fact be recorded in the Roznama, which will be a ground for cancellation of bail.

. Application disposed of on the above terms.

A.M.KHANWILKAR, J.